

Article 7: Elections, Campaign Finance and Lobbying

Division 40: Municipal Lobbying

(“*Municipal Lobbying*” added 5–18–1998 by O–18511 N.S.)

§27.4001 Purpose

The purpose of this division is to provide registration and disclosure requirements whereby individuals acting as *Municipal Lobbyists* are required to register with the *City*. The purpose of registration is to require *Lobbyists* to provide sufficient information so that complete disclosure of principals and *Clients* they represent may become public information for the benefit of the *City* Council and the general public. This division is not intended to discourage or prohibit the exercise of constitutional rights.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4002 Definitions

All defined terms in this division appear in italics. The first letter of each term defined in this division is capitalized. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

"Activity Expense" means any *Payment* made to, or benefitting, any *City Official* made by a *Lobbyist*. An *Activity Expense* benefits a *City Official* if it is made to, or on behalf of, the *City Official*. An *Activity Expense* includes gifts provided to the *City Official's* spouse or dependent child if the *City Official* receives benefits from the gift or exercises control or discretion over the use or disposal of the gift. *"Activity Expenses"* include gifts, meals, honoraria, consulting fees, salaries and any other form of *Compensation*, but do not include campaign contributions.

"Agent" means a *Person* who acts on behalf of any other *Person*. *"Agent"* includes a *Person* who acts on behalf of a *Lobbyist*.

"City" means the City of San Diego or any organizational subdivision, office, or board of the *City*.

"City Board" includes the boards of directors of all *City* agencies, and any board, commission, committee, or task force of the *City* established by action of the *City* Council under authority of the *City* Charter, Municipal Code or Council resolution.

"*City Official*" includes:

- (a) any elected or appointed *City* officeholder, including any *City* officeholder elected but not yet sworn in, *City Board* member, or employee of the *City* or any *City* agency, who, as part of his or her official duties, participates in the consideration of any *Municipal Decision* other than in a purely clerical, secretarial or ministerial capacity;
- (b) *City Council* members acting in their capacity as Housing Authority and Redevelopment Agency officers; and
- (c) any consultants of this *City* who are required to file a statement of economic interest pursuant to any conflict of interest code adopted by the *City Council*.

"*Client*" means

- (a) a *Person* who compensates a *Lobbyist*, including an *In-House Lobbyist*, for the purpose of *Influencing a Municipal Decision*; or
- (b) a *Person* on whose behalf a *Lobbyist* makes attempts at *Influencing a Municipal Decision*.

"*Committee*" has the same meaning as that set forth in California Government Code Section 82013.

"*Compensated Services*" means *Lobbying* activities for which *Compensation* was paid during a reporting period or for which the *Lobbyist* became entitled to *Compensation* during that period.

"*Compensation*" means any economic consideration for services rendered, other than reimbursement for *Travel Expenses*.

"*Contract*" includes but is not limited to written contracts, agreements, memoranda of understanding, and similar writings that set forth transactions involving personal property, real property, intellectual property, personal services, consultant services, public works, or insurance. For purposes of this division, "*contract*" and "*agreement*" are synonymous. The definition of "*contract*" is intended to be broadly construed.

"*Day*" means calendar day unless otherwise specified.

"Direct Communication" means:

- (a) talking to (either by telephone or in person); or
- (b) corresponding with (either in writing or by electronic transmission or facsimile machine).

"Direct Communication" does not include:

- (a) solely responding to questions from any *City Official*; or
- (b) appearing as a speaker at, or providing written statements which become part of the record of, a *Public Hearing*, so long as the *Lobbyist* identifies the *Clients(s)* represented;

"Enforcement Authority" has the same meaning as that term is defined in Section 27.2903.

"Gift" has the same meaning as that set forth in California Government Code Section 82028.

"Influencing a Municipal Decision" means affecting or attempting to affect any action by a *City Official* on one or more *Municipal Decisions* by any method, including promoting, supporting, opposing or seeking to modify or delay such action. *"Influencing a Municipal Decision"* also includes providing information, statistics, analysis or studies to a *City Official*.

"In-House Lobbyist" means an individual who engages in *Lobbying* solely on behalf of his or her business or employer. *"In-House Lobbyist"* includes, but is not limited to, owners, officers, and salaried employees of a business.

"Lobbying" means *Direct Communication* with a *City Official* for the purpose of *Influencing a Municipal Decision* on behalf of any other *Person*.

"Lobbyist" means an individual who receives or becomes entitled to receive the threshold *Compensation* amount during any calendar quarter for *Lobbying*, and who has had at least one *Direct Communication* with a *City Official* in that calendar quarter. *Lobbyist* includes:

- (a) *In-House Lobbyists* who engage in *Lobbying*;
- (b) individuals under contract to engage in *Lobbying*; and

- (c) individuals employed by a firm under contract to provide *Lobbying* services, whose pro-rated salary for *Lobbying* activities meets the threshold *Compensation* during any calendar quarter.

"*Municipal Decision*" includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, or repeal of any ordinance or resolution;
- (b) the amendment of any ordinance or resolution;
- (c) a report by a *City Official* to the *City Council* or a *City Council Committee*;
- (d) contracts;
- (e) quasi-judicial decisions, including:
 - (1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; or
 - (2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; and
- (f) any other decision of the *City Council* or a *City Board*.

"*Municipal Decision*" does not include any of the following:

- (a) any request for advice regarding, or for an interpretation of laws, regulations, *City* approvals or policies;
- (b) a direct response to an enforcement proceeding with the *City*;
- (c) any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the *City*, or *City* agent, officer or employee;
- (d) any ministerial action such as decisions on private land development made pursuant to Process 1 as described in Chapter 11 of this Municipal Code;
- (e) any action relating to the establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or

memorandum of understanding between the *City* and a recognized employee organization, or a proceeding before the Civil Service Commission; or

- (f) any management decisions as to the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (e) above.

"Payment" has the same meaning as that set forth in California Government Code Section 82044.

"Person" means any individual, business entity, trust, corporation, association, committee, or any other organization or group of *Persons* acting in concert.

"Public Hearing" means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a *Lobbyist* testifying at that hearing.

"Public Official" means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies; the State of California; the City; any political subdivision of the state, including counties and districts; or any public corporation, agency or commission.

"Travel Expenses" means reasonable expenses for transportation plus a reasonable sum for food and lodging.

(Amended 5-30-2000 by O-18807 N.S.)

§27.4004 Exceptions

The following *Persons* are exempt from the requirements of this division:

- (a) a *Public Official* acting in his or her official capacity and any government employee acting within the scope of his or her employment;
- (b) any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes or is employed by any such newspaper, periodical, radio or television station) that in the ordinary course of business publishes news items, editorials or other comments or paid advertisements which directly or indirectly urge action on a Municipal Decision, if such newspaper, periodical, radio or television station, or individual engages in no other activities to Influence a *Municipal Decision*; and

- (c) any *Person* whose sole activity includes one or more of the following:
 - (1) to submit a bid on a competitively bid *contract*;
 - (2) to submit a written response to a request for proposals or qualifications;
 - (3) to participate in an oral interview for a request for proposals or qualifications; or,
 - (4) to negotiate the terms of a *contract* or agreement with the City, once the City has authorized either by action of the City Council, City Manager, or voters, entering an agreement with that *Person*, whether that *Person* has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

(Amended 11-8-1999 by O-18705 N.S.)

§27.4005 Threshold Determination

- (a) For the purpose of determining whether a *Lobbyist* has met the threshold for Compensation registration required by Section 27.4007, time spent on the following activities shall be included:
 - (1) monitoring a *Municipal Decision* the *Lobbyist* is seeking to influence;
 - (2) preparing testimony and presentations;
 - (3) attending hearings on a *Municipal Decision* the *Lobbyist* is seeking to influence;
 - (4) communicating with the *Lobbyist's Client* or the *Lobbyist's* employer on a *Municipal Decision* the *Lobbyist* is seeking to influence; and
 - (5) waiting to meet with *City Officials*. These and similar activities are an integral part of *Influencing a Municipal Decision*.
- (b) The threshold *Compensation* shall be calculated as follows:
 - (1) In 1999 it is \$2,000.
 - (2) It will be adjusted each year thereafter, based on the San Diego Consumer Price Index percentage change.

- (c) The *City Clerk* shall publish the threshold *Compensation* amount on or before January 10 of each year.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4006 Activity Expense on Behalf of Client

An *Activity Expense* shall be considered to be made on behalf of a *Client* if the *Client* requires, authorizes, or reimburses the expense.

(“Registration Required” added 5-18-1998 by O-18511 N.S.)

§27.4007 Registration Required

- (a) A *Lobbyist* is required to register with the *City Clerk* no later than ten (10) *Days* after qualifying as a *Lobbyist*.
- (b) Within ten (10) *Days* after qualifying as a *Lobbyist*, a *Lobbyist* shall report the information required by Section 27.4017 for any *Compensated Services* the *Lobbyist* provided in the three (3) months prior to the date of qualification as a *Lobbyist*.
- (c) *Lobbyists* shall file with the *City Clerk* the registration form with the *Lobbyists'* original signature.
- (d) Nothing in this division precludes an individual from registering as a *Lobbyist* prior to qualifying.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4009 Contents of Lobbyist's Registration

Lobbyists shall file with the *City Clerk* the registration form which contains the following:

- (a) the *Lobbyist's* full name, business address, and business telephone number;
- (b) the name, business address, and business telephone number of the *Lobbyist's* employer, if any;
- (c) a specific description of the *Lobbyist's* employer, if any, in sufficient detail to inform the reader of the nature and purpose of the employer's business;
- (d) for each *Client* for which the *Lobbyist* provides *Lobbying Activities*:

- (1) the *Client's* name, business or mailing address and business or message telephone number;
 - (2) a specific description of each *Client* in sufficient detail to inform the reader of the nature and purpose of the *Client's* business;
 - (3) the specific *Municipal Decision(s)* for which the *Lobbyist* was retained to represent the *Client*, or a description of the type(s) of *Municipal Decision(s)* for which the *Lobbyist* was retained to represent the *Client*;
- (e) a statement that the *Lobbyist* has reviewed and understands the requirements of Division 40 governing municipal lobbying; and
- (f) any other information required by the *City Clerk* consistent with the purposes and provisions of this division.
- (Amended 12-7-1998 by O-18606 N.S.)

§27.4010 Lobbyist and Client Registration Fees

- (a) At the time the *Lobbyist* registers pursuant to Section 27.4007, the *Lobbyist* shall pay:
- (1) an annual *Lobbyist* registration fee of forty dollars (\$40); plus
 - (2) an annual *Client* registration fee of fifteen dollars (\$15) for each *Client* identified on the registration form.
- (b) A *Lobbyist* who initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to Section 27.4007 shall pay:
- (1) a prorated *Lobbyist* registration fee of twenty dollars (\$20); plus
 - (2) a prorated *Client* registration fee of ten dollars(\$10) for each *Client* identified on the registration form.
- (c) When a *Client* is acquired subsequent to the initial registration, the *Lobbyist* shall pay the *Client* registration fee when filing the information required by Section 27.4009.

- (d) For the purpose of determining *Client* registration fees, a trade association or business organization qualified under Internal Revenue Code 501(c)(6) shall consider its members as one *Client*.
- (e) For the purpose of determining *Client* registration fees, a single *Client* registration fee shall be paid for a *Person*, other than an individual, that employs more than one *In-House Lobbyist*.
- (f) Fees may be paid or reimbursed by the *Person*, if any, who employs the *Lobbyist*.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4012 Amendments to Registration Form

Except as provided in Section 27.4015(b), *Lobbyists* shall file amendments to their registration form with the next quarterly disclosure report, and shall disclose any change in information required on the registration form as set forth in Section 27.4009.

(Amended 11-8-1999 by O-18705 N.S.)

§27.4013 Duration of Status

An individual who registers as a *Lobbyist* retains that status through January 5 of the following calendar year unless and until he or she terminates that status in accordance with Section 27.4022. An individual who continues to qualify as a *Lobbyist* on January 5 shall renew that registration on or before January 15 of each year.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4014 Notification of Activity Expense Paid to or Benefitting a City Official

- (a) Any *Lobbyist* required to file a disclosure report under the provisions of this division shall provide the following information to each *City Official* who is the beneficiary of an *Activity Expense* from the *Lobbyist*.
 - (1) the date and amount of the *Activity Expense*;
 - (2) a description of the *Activity Expense* provided to the *City Official*; and
 - (3) the client, if any, on whose behalf the expenditure was made.

- (b) The information required to be disclosed pursuant to subdivision (a) shall be provided in writing to the *City Official* who is the beneficiary within twenty business days after the date of the expenditure.

(“*Notification of Activity Expense Paid to or Benefitting a City Official*” added 5-30-2000 by O-18807 N.S.)

§27.4015 Quarterly Disclosure Report Required

- (a) *Lobbyists* shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a *Lobbyist*.
- (b) In lieu of amending the registration form, a *Lobbyist* may use the quarterly report to disclose any change in information required on the registration form as set forth in Section 27.4009.
- (c) The *Lobbyist* shall file with the *City Clerk* the report with an original signature. (Amended 11-8-1999 by O-18705 N.S.)

§27.4016 Filing Deadline for Quarterly Disclosure Report

Lobbyists shall file quarterly disclosure reports with the *City Clerk*, with the *Lobbyist's* original signature, no later than the last *Day* of the months of April, July, October and January. *Lobbyists* shall disclose the information required by Section 27.4017 for the calendar quarter immediately prior to the month in which the report is required to be filed.

(“*Filing Deadline for Quarterly Disclosure Report*” added 5-18-1998 by O-18511 N.S.)

§27.4017 Contents of Lobbyist's Quarterly Disclosure Report

A *Lobbyist's* quarterly disclosure report shall contain the following information:

- (a) the *Lobbyist's* full name, business address and business telephone number;
- (b) the name, business address and business telephone number of the *Lobbyist's* employer, if any;
- (c) the name, business or mailing address and business or message telephone number of each *Client* represented by the *Lobbyist* during the reporting period; and the specific *Municipal Decision(s)* for which the *Lobbyist* represented the *Client* during the reporting period;

- (d) total *Compensation* received during the reporting period in connection with *Lobbying*, itemized by *Client*. For Lobbyists employed by an entity that provides *Lobbying* services by contract with *Clients*, the individual *Lobbyist* shall report his or her pro-rata share of *Compensation* received by, or entitled to be received by, the entity for *Lobbying* services provided to those *Clients*. Such *Compensation* shall be disclosed using the following ranges: [] \$0-\$5,000; [] \$5,000-\$25,000; [] \$25,000-\$50,000; and [] Over \$50,000;
- (e) an itemization, which includes the date, amount and description of any *Activity Expenses* made by the *Lobbyist* during the reporting period of \$10 or more on any one occasion; or *Activity Expenses* made by the *Lobbyist* during the reporting period aggregating \$50 or more during the quarter, to benefit any single *City Official* on behalf of any one *Client*;
- (f) the name and title of the *City Official* benefitting from each itemized *Activity Expense*;
- (g) the name and address of the payee of each itemized *Activity Expense*;
- (h) the name of the vendor if different from that of the payee of each itemized *Activity Expense*;
- (i) the name of the *Client*, if any, on whose behalf each itemized *Activity Expense* was made;
- (j) the total amount of all *Activity Expenses*, whether itemized or not, made by the *Lobbyist* during the reporting period; and
- (k) any other information required by the *City Clerk* consistent with the purposes and provisions of this division.
(Amended 12-7-1998 by O-18606 N.S.)

§27.4018 Accountability

In addition to any other requirement of this division, every *Lobbyist* shall retain for a period of five years all books, papers and documents necessary to substantiate the quarterly disclosure reports required to be made under this division.
(“Accountability” added 12-7-1998 by O-18606 N.S.)

§27.4020 Forms to be Provided by the City Clerk

Lobbyists shall file registration forms and quarterly disclosure reports required by this division on forms provided by the *City Clerk*.

(“*Forms to be Provided by the City Clerk*” added 5–18–1998 by O–18511 N.S.)

§27.4021 Verification of Registration Form and Quarterly Disclosure Report

Lobbyists shall sign and verify registration forms and quarterly disclosure reports required by this division under penalty of California perjury laws.

(“*Verification of Registration Form and Quarterly Disclosure Report*” added 5–18–1998 by O–18511 N.S.)

§27.4022 Termination of Lobbyist Status

An individual who ceases being a *Lobbyist* shall notify the *City Clerk* of this status upon the quarterly disclosure report form provided by the *City Clerk*. Upon terminating, the individual shall report the information required in Section 27.4017 that remains unreported since the last quarterly disclosure report.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4023 Other Obligations of a Lobbyist

Any individual who is required to register as a *Lobbyist* under the provisions of this division shall:

- (a) disclose his or her status as a *Lobbyist* to a *City Official* before providing anything of value to that individual which would require disclosure as an *Activity Expense* to the *City Official* pursuant to Section 27.4014.
- (b) abstain from doing any act with the purpose or intent of placing a *City Official* under personal obligation to the *Lobbyist*, or to the *Lobbyist’s* employer or *Client*;
- (c) correct, in writing, any misinformation given to a *City Official*, specifying the nature of the misinformation;
- (d) not deceive or attempt to deceive a *City Official* as to any material fact pertinent to any pending or proposed *Municipal Decision*;

- (e) not cause any communication to be sent to a *City Official* in the name of any fictitious *Person* or in the name of any real *Person*, except with the consent of such real *Person*; and
- (f) not attempt to evade the obligations in this section through indirect efforts or through the use of *Agents*, associates or employees.

(Amended 5-30-2000 by O-18807 N.S.)

§27.4024 Employment of City Employees by Lobbyist

If any *Lobbyist* registered or required to be registered under Section 27.4007:

- (a) employs, in any capacity whatsoever, or
- (b) requests, recommends, or causes the *Lobbyist's* employer to employ any individual known to be a *City Official*, the *Lobbyist* shall file a written statement with the *City Clerk* within ten (10) *Days* after such employment. This statement shall set forth the name of the individual employed, the date first employed by the *Lobbyist* or the *Lobbyist's* employer, and that individual's position, title, and department in the *City*.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4025 Powers and Duties of the City Clerk

- (a) Upon receipt of a written request, the *City Clerk* may issue a notice of registration requirements to any *Person* whom a *City Official* or any other *Person* has reason to believe should be registered under this division. Before sending the notice, the Clerk:
 - (1) shall require the *Person* making the request to provide a written statement of the factual basis for the belief; and,
 - (2) shall determine whether sufficient facts exist to warrant sending the notice.
- (b) Any individual who in good faith and on reasonable grounds believes that he or she is not required to comply with the provisions of Section 27.4007 by reason of being exempt under any provision of this division shall not be deemed to have violated the provisions of Section 27.4007 if, within ten (10) *Days* after the *City Clerk* has sent specific written notice, the individual either complies with the requirements of this division, or furnishes satisfactory evidence to the

Clerk that he or she is exempt from registration.

- (c) As soon as practicable after the close of each quarter, the *City Clerk* shall complete a summary of the information contained in registration forms and quarterly disclosure reports required to be filed under the provisions of this division. This summary shall be forwarded to the Mayor and *City Council*.
- (d) The *City Clerk* shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of five years from the date of filing. These registration forms and quarterly disclosure reports shall constitute part of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.
- (e) The *City Clerk* shall report apparent violations of this division to the *Enforcement Authority*.
- (f) The *City Clerk* shall have the power to adopt all reasonable and necessary procedures to implement this division.

(Amended 11-8-1999 by O-18705 N.S.)

§27.4026 Inspection of Forms and Reports

- (a) The *City Clerk* shall inspect, or cause to be inspected, each registration form and quarterly disclosure report filed under this division within twenty (20) working *Days* after the filing deadline. The Clerk shall notify an individual to file a registration form or quarterly disclosure report under this division if it appears that the individual has failed to file as required by law or that the registration form or quarterly disclosure report filed by the individual does not conform to law.
- (b) Any individual notified to file an original or amended registration form or quarterly disclosure report shall file the form or report by the deadline imposed in the notification from the Clerk.

(Amended 12-7-1998 by O-18606 N.S.)

§27.4027 Enforcement Authority: Duties, Complaints, Legal Action, Investigatory Powers

- (a) The *Enforcement Authority* shall enforce the provisions of this division.
- (b) Any *Person* who believes that violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*. If the

Enforcement Authority determines that there is reason to believe a violation of this division has occurred, it shall make an investigation. Whenever the *Enforcement Authority* has reason to believe a violation of this division has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

- (c) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this division. The *Enforcement Authority* may demand and shall be furnished records of *Lobbying Activity Expenses* at any time.
- (d) The *Enforcement Authority* shall determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this division.

(“Audits” repealed 11-8-1999 by O-18705 N.S.; “Audits Enforcement Authority: Duties, Complaints, Legal Action, Investigatory Powers” added 11-8-1999 by O-18705 N.S.)

§27.4028 Violations, Penalties and Defenses

- (a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The *City* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 or pursue any administrative remedy set forth in Chapter I of this Code.
- (b) In addition to any other penalty or remedy available, if any individual fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that individual shall be liable to the *City* of San Diego in the amount of ten dollars (\$10) per *Day* after the deadline until the report is filed, up to a maximum amount of \$100.
- (c) Provisions of this division need not be enforced by the *City* Clerk if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division.
- (d) Provisions of this division shall not be waived if a registration form or quarterly disclosure report, or an amendment to correct any deficiency in a registration form or quarterly disclosure report, is not filed by the deadline imposed in the notification from the *City* Clerk of the filing requirement.

- (e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.

(Amended 7-18-2000 by O-18826 N.S.)